

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
AMARILLO DIVISION

Alliance for Hippocratic Medicine, *et al.*

Plaintiffs,

v.

U.S. Food and Drug Administration, *et al.*,

Defendants,

and

Danco Laboratories, LLC,

Intervenor-
Defendant

Case No. 2:22-cv-00223-Z

JOINT MOTION TO STAY DEADLINE TO ANSWER OR RESPOND TO COMPLAINT

Pursuant to Federal Rule of Civil Procedure 6(b), the parties jointly move this Court to stay Defendants' and Intervenor-Defendant's deadline(s) to answer or respond to Plaintiffs' Complaint. Good cause exists for such a stay, as set forth herein.

1. Plaintiffs filed their Complaint and Motion for Preliminary Injunction on November 18, 2022.

2. On December 8, 2022, on a joint motion by the parties, this Court stayed Defendants' deadline to answer or respond to the Complaint until the Court resolved Plaintiffs' Motion for Preliminary Injunction. ECF No. 13. The Court further ordered that the parties jointly propose a new answer or response deadline within two weeks after this Court's decision on the Motion for Preliminary Injunction. *Id.*

3. On February 6, 2023, this Court granted Intervenor-Defendant's Motion to Intervene. ECF No. 33.

4. On April 7, 2023, this Court entered an order granting Plaintiffs' Motion in part. ECF No. 137 (April 7, 2023 Memorandum Opinion and Order). That same day, Defendants and Intervenor-Defendant filed notices of appeal. ECF Nos. 138 & 139. Both appeals remain pending.¹ The Fifth Circuit has expedited the appeals, set a briefing schedule, and scheduled oral argument for May 17, 2023.

5. In light of the pending appeals, and to conserve the parties' and the Court's resources, the parties propose that Defendants' and Intervenor-Defendant's deadline to answer or respond to the Complaint be stayed until the resolution of Defendants' and Intervenor-Defendant's appeals of this Court's April 7, 2023 Memorandum Opinion and Order. Within two weeks of the resolution of all appellate avenues with respect to this Court's April 7, 2023 Memorandum Opinion and Order, including a petition for certiorari and any related subsequent proceedings, if applicable, the parties will propose a new answer or response deadline.

¹ On April 12, 2023, the United States Court of Appeals for the Fifth Circuit partially stayed this Court's April 7, 2023 Memorandum Opinion and Order. On April 14, 2023, Defendants and Intervenor-Defendant sought emergency relief from the Supreme Court. That same day, Justice Alito granted an administrative stay for 5 days. On April 19, 2023, Justice Alito extended the administrative stay for an additional two days, until 11:59 p.m. EDT on April 21, 2023.

Dated: April 21, 2023

Respectfully submitted,

/s/ Erik C. Baptist

ERIK C. BAPTIST, D.C. Bar No. 490159
ERIN MORROW HAWLEY, D.C. Bar No. 500782*
MATTHEW S. BOWMAN, D.C. Bar No. 993261
ERICA STEINMILLER-PERDOMO, DC Bar No.
90009737
ALLIANCE DEFENDING FREEDOM
440 First Street NW, Suite 600
Washington, DC 20001
Telephone: (202) 393-8690
Facsimile: (202) 347-3622
ebaptist@ADFlegal.org
ehawley@ADFlegal.org
mbowman@ADFlegal.org
esteinmiller@ADFlegal.org

/s/ Noah T. Katzen

NOAH T. KATZEN
Trial Attorney
Consumer Protection Branch
Civil Division
U.S. Department of Justice
P.O. Box 386
Washington, DC 20044-0386
(202) 305-2428
(202) 514-8742 (fax)
Noah.T.Katzen@usdoj.gov

Counsel for Defendants

/s/ Jessica L. Ellsworth

JESSICA L. ELLSWORTH

RYAN BROWN
RYAN BROWN ATTORNEY AT LAW
Texas Bar No. 24073967
ryan@ryanbrownattorneyatlaw.com
1222 S. Fillmore Street
Amarillo, Texas 79101
Tel: (806) 372-5711

JESSICA L. ELLSWORTH*
CATHERINE E. STETSON*
PHILIP KATZ*
LYNN W. MEHLER*
KAITLYN A. GOLDEN*

JULIE MARIE BLAKE, VA Bar No. 97891
ALLIANCE DEFENDING FREEDOM
44180 Riverside Parkway
Lansdowne, Virginia 20176
Telephone: (571) 707-4655
Facsimile: (571) 707-4790
jblake@ADFlegal.org

DENISE M. HARLE, GA Bar No. 176758
ALLIANCE DEFENDING FREEDOM
1000 Hurricane Shoals Rd NE,
Suite D-1100
Lawrenceville, Georgia 30043
Telephone: (770) 339-0774
Facsimile: (770) 339-6744
dharle@ADFlegal.org

CHRISTIAN D. STEWART, TX Bar No. 24013569
MORGAN WILLIAMSON, LLP
701 S Taylor, Suite 400, LB 103
Amarillo, Texas 79101
Telephone: (806) 358-8116
Facsimile: (806) 350-7642
cstewart@mw-law.com

Counsel for Plaintiffs
**Admitted Pro Hac Vice*

MARLAN GOLDEN*
HOGAN LOVELLS US LLP
555 Thirteenth Street, NW
Washington, D.C. 20004
Tel: (202) 637-5600
jessica.ellsworth@hoganlovells.com

*admitted pro hac vice

Counsel for Danco Laboratories, LLC